

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ARTURO TORRES OCHOA,

Plaintiff,

vs.

SCHOFIELD, *et al.*,

Defendants.

3:12-cv-00180-LRH-WGC

ORDER

This is a civil rights action submitted by plaintiff pursuant to 42 U.S.C. § 1983. On May 31, 2012, the court denied plaintiff's motion to proceed *in forma pauperis* because, under 28 U.S.C. § 1915(g), plaintiff has been banned from filing actions *in forma pauperis* unless he can show he is in imminent danger of serious physical injury. (ECF No. 6.) In its order, the court concluded that plaintiff fails to plausibly allege that he is in imminent danger of serious physical injury. *See Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (holding that the exception to § 1915(g) applies "if the complaint makes a plausible allegation that the prisoner faced 'imminent danger of serious physical injury' at the time of filing."). Thus, the court ordered plaintiff to pre-pay the filing fee in full.

Plaintiff has failed to submit the filing fee as required by the court. Additionally, the amended complaint filed by plaintiff (ECF No. 9), as with his original complaint, fails to plausibly allege that he faces imminent danger of serious physical injury.

IT IS THEREFORE ORDERED that clerk shall **FILE** the complaint (ECF No. 1-2).

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1 **IT IS FURTHER ORDERED** that this action is **DISMISSED without prejudice** for
2 plaintiff's failure to pay the filing fee or plausibly allege that he faces imminent danger of serious
3 physical injury. The clerk shall enter judgment accordingly.

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5 Dated this 3rd day of August, 2012.



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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE